

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff(s),

v.

**JONATHAN ORTIZ-TORRES,
ANGEL SANTANA-ESPINET,
LEROY SANTANA-ROSADO,**

Defendant(s).

CRIMINAL NO. 10-138 (GAG)

MINUTE AND ORDER

On this date the court received from AUSA Marshal D. Morgan the documentation submitted by US Attorney Rosa E. Rodriguez Velez to the Assistant Attorney General pertaining to the US Attorney's recommendation to seek or not to seek the death penalty in this case as to defendants Jonathan Ortiz Torres and Angel Santana Espinet. The aforementioned documentation was submitted to the undersigned , *ex parte*, under seal, as per previous order, as amended (see docket nos 178 and 182).

From a detailed examination of the documentation submitted to the Assistant Attorney General, the undersigned makes the following observations and conclusions:

1. The extensive and detailed documentation submitted to the Assistant Attorney General does not

reveal, nor suggests the existence of any additional Brady - Giglio - Kyles material, aside from that already submitted by AUSA Bazan to the defense in a timely manner.

2. The prosecutors in this case (AUSAs Bazan and Vazquez) have not committed any misconduct by failing to disclose to the defense (and the court) additional exculpatory evidence. To the contrary, they have fully complied with their duty as officers of this court, as required by the Rules of Professional Conduct and our Nation's Constitution, as interpreted by the Supreme Court, as well as by the First Circuit and this Court.

The Court shall maintain the government's *ex parte* submission as part of the record in this case. The same shall remain, sealed in the court's vault, and may only be viewed by the undersigned and any judges from the Court of Appeals that may eventually have to review this case.

SO ORDERED

In San Juan, Puerto Rico this 13th day of December, 2010.

s/ Gustavo A. Gelpi

GUSTAVO A. GELPI

United States District Judge